

REMARKS AND DISCUSSION:

Upon entry of the present Amendment-B, claims 1-19 remain pending in the application, of which claims 1, 5 and 19 are each independent. New claim 19 has been added by the present Amendment-B. Also, claims 1-18 are subjected to a Restriction Requirement under PCT Rule 13.1.

Amendments Presented

In the Claims: Claim 8 has been amended to depend from claim 1 and to specify that a brush which is provided in at least one of the case body or the lid.

Claim 9 has been amended to specify that the anti-slip member provided on at least one of a bottom surface of the case body and a top surface of the lid.

Claim 10 has been amended to specify that the anti-slip member is provided on at least one of peripheral surface of the case body and a peripheral surface of the lid.

Claim 12 has been amended to specify that the case body or the lid in which the liquid retaining member is provided is different than the case body or the lid in which the brush is provided.

New claim 19 is substantially similar to claim 1 and further defines an anti-slip member provided on an outer surface of a portion of the case.

Applicant respectfully submits that the above amendments to the claims and new claims are fully supported by the original disclosure, including the drawings, specification and claims. Applicant also respectfully submits that no new matter is introduced into the application by the above amendments and new claims because the entire subject matter thereof was expressly or inherently disclosed in the original claims, specification and drawings.

RESTRICTION REQUIREMENT

In the above-identified Office Action, claims 1-18 have been placed under a Restriction Requirement under PCT Rule 13.1.

SUMMARY OF THE EXAMINER'S POSITION

Specifically, the Examiner has identified the following species:

Specie 1	Figs. 1a and 1b
Specie 2	Figs. 2a and 2b
Specie 3	Figs. 3a and 3b
Specie 4	Fig. 4
Specie 5	Fig. 5
Specie 6	Fig. 6, 7a, 7b and 7c
Specie 7	?
?	Fig. 8
Specie 8	Fig. 9
Specie 9	Fig. 10
Specie 10	Fig. 11
Specie 11	Fig. 12

The Examiner has required restriction to one of the identified species for examination. The Examiner has taken the position that in his view, the present application contains claims directed to more than one species of the generic invention, and that the species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner maintains that under PCT Rule 13.2, the species lack the same or corresponding "special technical features" because (according to the Examiner)

the special technical features in all groups/species is a cleaning arrangement including a case, a brush provided in the case, and a liquid-retaining member in the case. The Examiner states that in his view, this element is not deemed a “special technical feature” among the groups because these elements are taught in a prior art reference. Further, the Examiner states that in his view, the recitation of cleaning earwax from a hearing aid merely involves intended use. Therefore, according to the Examiner, there is a lack of unity because there is not a special technical feature that defines a contribution over the prior art.

Additionally, the Examiner indicates that claim 1 is generic.

Applicant's Response:

Initially, applicant acknowledges the Examiner's indication that claim 1 is generic.

Applicant respectfully traverses the Restriction Requirement in the above-identified Office Action, and requests reconsideration and withdrawal thereof. Applicant respectfully suggests that the claims of the present invention are directed to related aspects of a single invention, and that the species do not lack unity of invention because they are so linked as to form a single general inventive concept.

Applicant respectfully suggests that in the present application, the Examiner does not appear to understand a basic idea behind Restriction practice, which is that two or more inventions are being claimed in a single application.

Section 803 of the Manual of Patent Examining Procedure, under the heading Restriction - When Proper, states that under the applicable statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP 802.01, 806.06, and 808.01) or distinct (MPEP 806.05).

As far as it is understood by the applicant, the Examiner's reasoning appears to be that in the view of the Examiner, the claimed invention is either anticipated or obvious in light of the prior art, and therefore, the single "special technical feature" common to all of the claims is not "special" enough to be patentable.

This argument, if correctly understood, does not go to the issue of two or more inventions being present in the application. Instead, the above argument goes to the issue of patentability, which is not normally addressed by Restriction practice. Indeed, the Examiner's own reasoning concedes that a single special technical feature is present in all of the claims, and implicitly suggests that a Restriction is not appropriate in this case.

Applicant also respectfully points out that the Restriction Requirement is contrary to the International Preliminary Report on Patentability issued in the present application.

Moreover, given the Examiner's indication that claim 1 is generic, applicant respectfully submits that examination of the entire application would not place a serious burden on the Examiner and that, the claims of the present application should therefore not be subject to restriction.

Further, applicant respectfully submits that if a generic claim is allowed at a future date, it will then become necessary, under 37 CFR 1.141, to bring all other claims related to that generic claim back into the application. Applicant therefore suggests that in order to promote efficiency and quicker prosecution of the present application it would be sensible to examine all of the claims together in the present application.

Moreover, applicant respectfully points out that MPEP section 803 states that,

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Accordingly, applicant respectfully suggests that the examination of the entire application

would not place a serious burden on the Examiner.

Therefore, for all of the foregoing reasons, applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement.

However, notwithstanding the above, in order to fully comply with Patent Office procedures, applicant elects, with traverse, the specie identified by the Examiner as Specie 10, encompassing claims 1, 8-10 and new claim 19. It is applicant's understanding and belief that each of claims 1, 8-10 and 19 is directed to the elected specie. Therefore, applicant requests examination of claims 1 and 8-10 and new claim 19 in the present application, if the restriction requirement is maintained.

Conclusion

For all of the foregoing reasons, applicant respectfully requests reconsideration and withdrawal of the restriction requirement.

If the Examiner has any further questions or comments regarding applicant's response, the applicant encourages him to call applicant's representative William D. Blackman at the number listed below.

Favorable consideration is respectfully requested.

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